

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3111 of 1983

Date of decision:2-9-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India,1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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JETHABHAI MATHURBHAI PATEL

Versus

LIFE INSURANCE CORPORATION OF INDIA & 4  
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Appearance:

MR MC SHAH for Petitioner

MR SI NANAVATI for Respondent No. 1  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 02/09/96

ORAL JUDGEMENT

Heard the learned counsel for the parties.

The petitioner who was holding the post of Assistant Branch Manager in the Life Insurance Corporation of India filed this special civil application against the order dated 24-5-1982 passed by the

disciplinary authority under which he was ordered to be compulsorily retired, and the order of the appellate authority dated 1-12-1982 under which the appeal filed against the said order was dismissed. The order of penalty has been made by the disciplinary authority after holding full-fledged inquiry. The charge against the petitioner was that he, without permission of the Corporation, actively participated in the conduct of business of the firm of M/s. Ganesh Traders and or its successor firm M/s. Ganesh Hardware & Machinery Stores.

2. The learned counsel for the petitioner contended that copy of the document which has been relied upon in the evidence against the petitioner has not been given to him though repeated request was made in this respect. It has next been contended that the documents are only xerox copy of the original and the same could not have been relied upon. It is not in dispute that inspection of all the documents which have been filed by the Corporation to prove the charge against the petitioner and taken on record has been permitted to the petitioner. Learned counsel for the petitioner has no doubt made request for giving copies of the documents, but he has failed to show any provision from the Discipline and Appeal Rules of the Corporation or from any other statutory provisions or regulation or resolution of the Corporation wherein it has been provided that the copies of the documents are to be given when a delinquent officer demands the same. In absence of any such provision coupled with the fact that all the documents were permitted to be inspected by the petitioner I do not find any substance in this contention. The respondent was not under any obligation to give copies of documents to the petitioner. Otherwise also where the petitioner has inspected the documents it cannot be said that non-supply of copies thereof has resulted in causing any prejudice to his defence. The documents are, as per petitioner's own case, of pre 1963. The petitioner has to be shown those documents and as stated earlier those documents have been permitted to be inspected by him. As such on the ground of non-supply of documents the order of penalty does not vitiate.

3. So far as the contention of the counsel for the petitioner that original documents were not produced is concerned, suffice it to say that those documents are in possession of third parties. Those documents were made available by non other than one of the partners of the firm in which the petitioner was actively participating. Provisions of Evidence Act are not applicable to departmental proceedings, and the originals were not

required to be produced. The petitioner has not produced any evidence in defence that those documents were not genuine documents. Photostat copies could have been taken in evidence in departmental proceedings and rightly the same has been done. The petitioner has been provided full opportunity of producing his documents. Whatever document produced by the petitioner has been considered. The inquiry held as well as the order of removal from service passed against the petitioner do not vitiate on the ground that the original document has not been filed. Here is a case where inquiry has been conducted by following the principles of natural justice. The petitioner does not dispute that he could not have actively participated in the business of the firm while he was serving the Corporation without its permission. It has also come on record that the petitioner's brother was a partner in the firm. In these facts and circumstances of the case, the disciplinary authority as well as the appellate authority have not committed any error, much less an error apparent on the face of the record, in making the impugned order against the petitioner.

4. In the result this special civil application fails and the same is dismissed. Rule discharged. No order as to costs.

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